

**MINUTES
CITY OF ST. CHARLES, IL
LIQUOR CONTROL COMMISSION MEETING
MONDAY, MAY 19, 2014**

1. Opening of Meeting

The meeting was convened by Liquor Commissioner Rogina at 4:22 p.m.

2. Roll Call

Members Present: Liquor Commissioner Rogina, Robert Gehm, Ald. Payleitner, and Ald. Lewis

Absent: Chuck Amenta

Others Present: Interim Police Chief Huffman, Mark Koenen, Atty. John McGuirk, and Tina Nilles

3. Discussion on tobacco licensing and governance for information and advisement.

Chrmn. Rogina: As a backdrop to this item, we've had a variety of different compliance checks going back years on both liquor and tobacco. With respect of alcohol to minors the penalties are pretty sturdy and the licensee has a tough burden. With respect to tobacco, my inquiry on recent incidents where a retail owner was cited with a tobacco license, I asked what was he fined? \$25.00 and I thought there is a disparity here. This conversation started with Chief Huffman as to whether or not this body might bring itself to get involved in a conversation about tobacco with the idea we would then move it along to City Council to stiffen the penalties on the sale of tobacco to minors and more importantly to provide some due process to this whole matter so there would be a hearing, get the details, and have a chance to question as we do with liquor licensees as to why is this happening. This is just for discussion for us to begin a process. We are not here to take any action tonight.

Interim Police Chief Huffman: St. Charles Police Department has participated in the Illinois Liquor Control Commission "Kids Can't Buy Them Here" tobacco since 2003. We have received grant money from the Commission to conduct tobacco enforcement/tobacco compliance checks. That means three to four times a year detectives go out with minor kids, teenagers between 16/17 years of age, and we conduct compliance checks at every tobacco retail business in the City.

What we found is consistency in violations varies from year to year. When we do get a violation we cite the clerk who sold the cigarettes to the minor. There really isn't a whole lot of sanctions against the business itself. The State of Illinois does not issue tobacco licenses, but the City of

St. Charles does. There isn't anything in place for a tobacco license holder that we could sanction against a retail establishment.

What we like to discuss with you for consideration is drafting an ordinance that would merge our tobacco program under the authority of the Liquor Control Commissioner with the advisement of the Liquor Control Commission. We would put in place a due process for violations against that tobacco license for suspension, fines, and revocation with a greater fine structure. The fine structure that is currently in place is \$25 - \$500; however right now that goes in front of our Adjudication Hearing Officer or even the 16th Judicial Court which isn't set up to deal with these types of violations. In our current code the Mayor may suspend a city issued tobacco license however; there is no due process in place to accomplish that. We would also like to take a look at the fine structure to see if it should be greater than what it is currently today. We would also like to review and revamp the licensing issuing process that we currently go through. Right now it's a \$50 annual fee for tobacco license but there isn't anything in place for background investigation and we would like to see that in the new ordinance that we would draft. The new ordinance would look very similar to current code for liquor violations.

Mr. Gehm: I think this is a great idea, I wonder how we would look at the difference between the liquor fine structure we have and creating something new since we don't really have anything in place. Would that be the intent of the ordinance?

Chief Huffman: We are working with other communities to get copies of their ordinances. Wheaton and Naperville have their tobacco program under the guidance of the liquor commission.

Ald. Payleitner: Remind me of the law with E-cigarettes – are they the same?

Chief Huffman: That's something we'll need to look at as well. The state just passed a law on E-cigarettes and have been going back/forth on whether they should license tobacco retailers; so far they are not. We will map that out as we go.

Ald. Lewis: Remind me how the law reads – it's not illegal to smoke cigarettes, but it's illegal to buy them?

Chief Huffman: The state law regulates possession. There is a state law that prohibits selling tobacco to a minor that we charge under our local ordinance. Our ordinance makes up for what the state didn't put in their statutes.

Ald. Lewis: When you see a group of teenagers smoking on the corner, do you stop and ask them for ID?

Chief Huffman: Yes and we issue a ticket. Our School Resource Officers issue a lot of those citations and those go to the 16th Judicial Court under a local ordinance. We don't prosecute those in our Adjudication Hearing because the process doesn't allow for minors who are adjudicated guilty and don't pay the fine – adjudication can't do anything about that.

Ald. Lewis: I'm supportive of a stronger fine.

Chrmn. Rogina: Compliance checks are done on all tobacco products, cigars, chewing tobacco. I envision this as a process that will take a couple of months. How would you envision a compliance check violation on tobacco?

Chief Huffman: It would be much the same as the liquor violation process. They get notice of hearing, get opportunity to plea and go through due process pending on their plea.

Ald. Lewis: Are tobacco establishments generally in compliance when you do these checks?

Chief Huffman: The majority are in compliance. We send them a letter and signs every year for them to place in their business and we state in the letter that we will be in your establishment no less than three times in the coming year.

Motion by Ald. Payleitner, second by Mr. Gehm to direct staff to bring back draft language of an ordinance that we'll recommend to Committee/Council.

Voice Vote: Ayes: Unanimous; Nays: None; Absent: Amenta. Chrmn. Rogina did not vote as chair. **Motion carried.**

4. Discussion regarding Citation and Hearing Notices for: (13:45)

a. Alley 64

b. Thirsty Fox

Chrmn. Rogina: We have two citation violations for Alley 64 and Thirsty Fox. Alley 64 comes before us because of a continuance last month for the offense of on about March 4, 2014 at approximately 2:03 a.m., the Licensee, Alley 64, Inc. by and through its employees, officers and/or agents, committed the following offense in or upon the licensed premises at 212 W Main Street, St. Charles, IL 60174 for after-hours violation – remained open for business and permitted individuals to remain within its premises during hours in which the sale of alcoholic liquor is prohibited. An Alley 64 representative is not here tonight as they have submitted a “not guilty” plea and asked for a hearing and we'll schedule that hearing for next month, June 16.

Thirsty Fox – I see no one here representing them. Their offense is on or about March 21, 2014 at approximately 8:10 p.m., the Licensee, Big Ed's Entertainment, Inc. (Thirsty Fox Pub), by and through its employees, officers and/or agents, committed the following offense in or on the licensed premises at 104 E Main Street, St. Charles, IL 60174 of serving alcohol liquor to two persons under the age of 21. We provided a continuance for them to this meeting, we've received nothing from them in a way of a plea, so this is their second violation and I find them in default and guilty of the offense and, as such, we need to move into executive session to discuss the penalty.

5. Other Business

6. Executive Session (5 ILCS 120/2 (c)(4)).

Motion by Mr. Gehm, second by Ald. Payleitner to move into Executive Session at 4:50 p.m. to discuss liquor violations.

Voice Vote: Ayes: Unanimous; Nays: none; Absent: Amenta. Chrmn. Rogina did not vote as Chairman. **Motion carried.**

Motion by Mr. Gehm, second by Ald. Payleitner to return from Executive Session at 5:03 p.m.

Voice Vote: Ayes: Unanimous; Nays: none; Absent: Amenta. Chrmn. Rogina did not vote as Chairman. **Motion carried.**

Chrmn. Rogina: For the record we have found Thirsty Fox in default of a violation as discuss in executive session and the penalty will be taken under advisement and will be announced in 7 to 10 days.

7. Adjournment

Motion to adjourn by Mr. Gehm, second Ald. Payleitner 5:04 p.m.

Voice Vote: Ayes: Unanimous; Nays: none; Absent: Amenta. Chrmn. Rogina did not vote as Chairman. **Motion carried.**